

John Meyer, MT Bar # 11206
Cottonwood Environmental Law Center
P.O. Box 412
Bozeman, MT 59771
(406) 546-0149
john@cottonwoodlaw.org

Holly Seymour, MT Bar # 68806585
2203 Greenough Ct W
Missoula, MT 59802
(406) 223-6837
holly.seymour7@gmail.com

Counsel for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA - BUTTE DIVISION

COTTONWOOD)
ENVIRONMENTAL LAW CENTER;)
MONTANA RIVERS; and GALLATIN)
WILDLIFE ASSOCIATION,)

Plaintiffs,

vs.

BIG SKY WATER AND SEWER)
DISTRICT; BOYNE USA, INC.,)

Defendants.

Case No. 2:20-cv-00028-BMM

**NOTICE OF SUPPLEMENTAL
AUTHORITY**

Pursuant to Local Rule 7.4, Plaintiffs Cottonwood Environmental Law Center, Montana Rivers, and Gallatin Wildlife Association provide the Court with this Notice of Supplemental Authority for purposes of the pending Motion for a New Trial and Motion for the Insurance Representative to Appear at Mediation Remotely. Docs. 172 & 188. The Montana Bureau of Mining and Geology recently published the illustration below showing the Groundwater drain on Boyne's Golf Course and the Big Sky Water & Sewer District's underdrain pipe directly east of Boyne's Groundwater drain are not discharging nitrogen pollution from by a known plume. Exhibit 1 at 23.

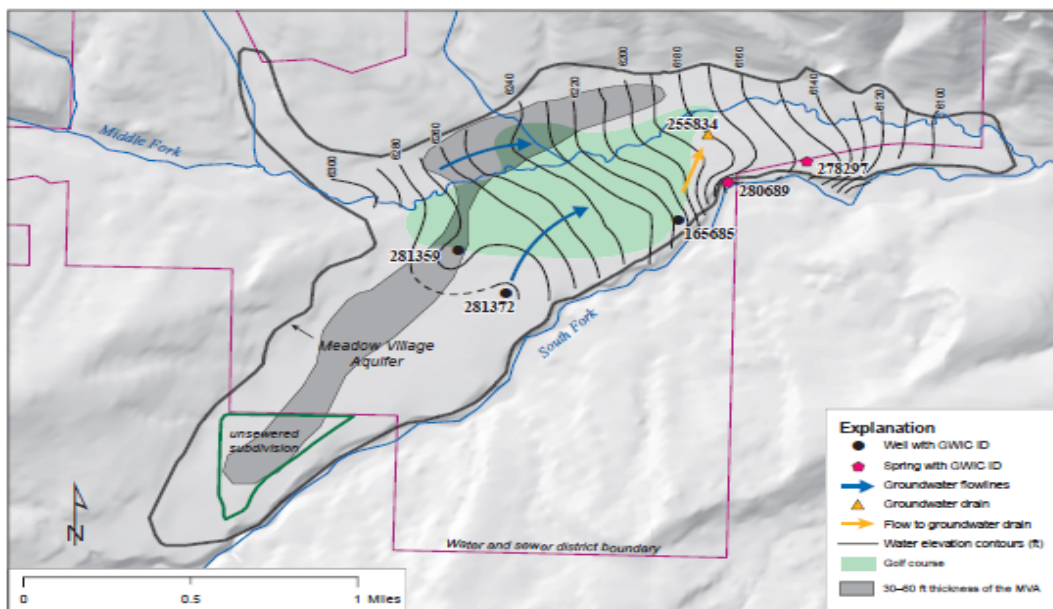


Figure 11. Potentiometric surface of the MVA groundwater generally flows west to east. The shaded area approximates a trough in the surface of the shale bedrock that forms the thickest part of the alluvial aquifer. Groundwater elevation contours are presented from Warren and others (2021).

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During trial, the Sewer District's expert testified that the leaking septic system from the Firelight Meadows subdivision is the "largest contributor" of the nitrogen pollution being discharged from its underdrain pipe. Exhibit 2; *see also* Doc. 76-5 at 15

(“there are significant sources of nitrogen to the south, including a large subdivision that discharges a secondary treated effluent directly to groundwater.”) Boyne has taken the position its insurance representative should not have to appear in-person for the mediation because “the monetary relief that Plaintiffs seek in their settlement demand is indefensible, particularly considering that a jury has already returned a verdict in favor of Big Sky Water and Sewer District (“BSWSD”) over Plaintiffs’ claim that BSWSD violated the Clean Water Act in a bifurcated trial based on practically *the same facts and issues in this case.*” Doc. 192 at 2 (emphasis added).

Respectfully submitted this 15th day of July, 2022.

/s/ John Meyer
JOHN MEYER

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I certify that on July 15, 2022, I served the foregoing brief via CM/ECF on counsel for defendants listed below:

Jacqueline R. Papez
Cynthia D. Brooks
DONEY CROWLEY P.C.
P.O. Box 1185
50 South Last Chance Gulch, 3rd Floor
Helena, MT 59601
Telephone: (406) 443-2211
Facsimile: (406) 449-8443
jpapez@doneylaw.com
cbrooks@doneylaw.com

Jonathan W. Rauchway (Admitted Pro Hac Vice)

Andrea Bronson (Admitted Pro Hac Vice)

Mave Gasaway (Admitted Pro Hac Vice)

DAVIS GRAHAM & STUBBS LLP

1550 17th Street, Suite 500

Denver, CO 80202

Telephone: (303) 892-9400

Facsimile: (303) 893-1379

jon.rauchway@dgsllaw.com

Mave.Gasaway@dgsllaw.com

Attorneys for Defendant Big Sky Water & Sewer District

Ian McIntosh

Neil Westesen

Joe Noreña

CROWLEY FLECK, PLLP

1915 South 19th Avenue

P.O. Box 10969

Bozeman, MT 59719

Telephone: (406) 556-1430

imcintosh@crowleyfleck.com

nwestesen@crowleyfleck.com

Attorneys for Defendant Boyne USA, Inc.